

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

JAMES FARRAGUT AND SCHWEIDA FARRAGUT

PLAINTIFFS

V.

CIVIL ACTION NO. 1:07cv1149-LTS-RHW

NATIONWIDE MUTUAL FIRE INSURANCE COMPANY,  
CAIN & ASSOCIATES ENGINEERS AND CONSTRUCTORS, INC.,  
AND DOES 1-5

DEFENDANTS

**ORDER**

On November 5, 2007, Defendant Nationwide Mutual Fire Insurance Company (Nationwide) filed a [12] Motion to Dismiss. Plaintiffs have not filed a response to this motion.

As background, Plaintiffs filed an earlier cause of action (No. 1:06cv636), in which they attempted to amend their complaint more than a year after the original was filed and also well beyond the time for joining parties and amending pleadings. When the United States Magistrate Judge denied the motion to amend, Plaintiffs not only filed objections with this Court but also filed an action in state court (naming Nationwide and defendant Cain & Associates, the latter being the party the Magistrate would not allow to be added). This second case was removed and is the instant cause of action. Plaintiffs have also requested [2] that this case and No. 1:06cv636 be consolidated.

Nationwide's [12] motion (joined [15] by Defendant Cain & Associates) is aimed primarily at Plaintiffs' alleged circumvention of the Magistrate's order in the original cause. Uniform Local Rule 7.2(c)(2) provides: "If a party fails to respond to any motion, other than a motion for summary judgment, within the time allotted, the court may grant the motion as unopposed."

Accordingly, **IT IS ORDERED:**

Plaintiffs' counsel shall, within five (5) calendar days of the date of this order, advise the Court by formal means of his position on Nationwide's pending [12] motion; failure to so advise the Court or provide adequate support for said position shall result in the granting of the relief sought by defendants.

**SO ORDERED** this the 10<sup>th</sup> day of December, 2007.

s/ L. T. Senter, Jr.  
L. T. SENTER, JR.  
SENIOR JUDGE